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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/525,820	02/25/2005	Kai Fabian	MERCK-2979	9173
23599	7590	10/03/2007	EXAMINER	
MILLEN, WHITE, ZELANO & BRANIGAN, P.C. 2200 CLARENDON BLVD. SUITE 1400 ARLINGTON, VA 22201			YOUNG, SHAWQUIA	
		ART UNIT		PAPER NUMBER
		1626		
		MAIL DATE	DELIVERY MODE	
		10/03/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/525,820	FABIAN ET AL.	
	Examiner	Art Unit	
	Shawquia Young	1626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 11 July 2007.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-13 and 15-17 is/are pending in the application.
- 4a) Of the above claim(s) 2-11 is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1,16 and 17 is/are rejected.
- 7) Claim(s) 12,13 and 15 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)
 Paper No(s)/Mail Date _____.
- 4) Interview Summary (PTO-413)
 Paper No(s)/Mail Date. _____.
- 5) Notice of Informal Patent Application
- 6) Other: _____.

DETAILED ACTION

Claims 1-13 and 15-17 are currently pending in the instant application.

I. Response to Amendments and Arguments

Applicant's amendments, filed July 11, 2007 with respect to the rejection(s) of claim(s) 1 and 15-17 under 35 U.S.C. § 102(b) as being anticipated by Saakyan has been fully considered and are persuasive. Therefore, the rejection as well has been withdrawn. However, upon reexamination of claims 1, 12, 13 and 15-17, the Examiner has found additional prior art that reads on claims 1, 16 and 17 that will be discussed in more detail below. Therefore, the method claims will not be rejoined with the compound claims because the compound claims are not allowable.

II. Rejections

Claim Rejections - 35 USC § 102

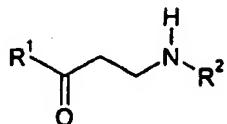
The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

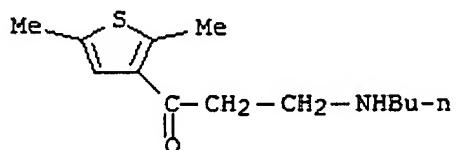
Claims 1, 16 and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by *Jakobsen, et al.* (CAPLUS). The instant elected invention claims a product

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with the formula

wherein R¹ is thienyl which is unsubstituted or mono- or polysubstituted by R³ and/or R⁴; R² is alkyl having 1-20 C atoms; R³ and R⁴ each independently is H, alkyl or alkoxy having 1-20 C atoms, aryl, aryloxy or COOR², F, Br, OH, CN, NO₂, N(R²)₂ or NHCOR².



The Jakobsen, et al. reference teaches . This species of compound anticipates the genus compound of the instant invention, wherein the genus structure and its definitions are stated above.

III. Objections

Dependent Claim Objections

Dependent Claims 12,13 and 15 are also objected to as being dependent upon a rejected based claim. To overcome this objection, Applicant should rewrite said claims in an independent form and include the limitations of the base claim and any intervening claim.

IV. Conclusion

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shawquia Young whose telephone number is 571-272-9043. The examiner can normally be reached on 6:30 AM-3:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph McKane can be reached on 571-272-0699. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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